

registered government securities brokers or dealers.

(b) *Effective date.* This section shall be effective on October 31, 1987.

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[52 FR 27952, July 24, 1987, as amended at 60 FR 11026, Mar. 1, 1995]

PART 405—REPORTS AND AUDIT

Sec.

405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.

405.2 Reports to be made by registered government securities brokers and dealers.

405.3 Notification provisions for certain registered government securities brokers and dealers.

405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

405.5 Risk assessment reporting requirements for registered government securities brokers and dealers.

AUTHORITY: 15 U.S.C. 78o-5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

SOURCE: 52 FR 27954, July 24, 1987, unless otherwise noted.

§ 405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.

(a) Compliance by registered brokers or dealers with §§ 240.17a-5, 240.17a-8, and 240.17a-11 of this title (Commission Rules 17a-5, 17a-8 and 17a-11) constitutes compliance with this part.

(b) A government securities broker or dealer that is a financial institution and is subject to financial reporting rules of its appropriate regulatory agency is exempt from the provisions of §§ 405.2 and 405.3.

(c) This part shall be effective July 25, 1987, *Provided however*,

(1) That registered government securities brokers or dealers shall first be required to file the reports required by § 240.17a-5(a), by virtue of § 405.2, for the month and the quarter during which they were first required to comply with part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f); but that

(2) For any quarter ending prior to the quarter during which they were

first required to comply with part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f), registered government securities brokers or dealers shall file with the designated examining authority for such registered broker or dealer, within 17 business days after the close of the quarter, an unaudited balance sheet (with appropriate notes) for such quarter, prepared in accordance with generally accepted accounting principles.

§ 405.2 Reports to be made by registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, except a government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter and a government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a-5 of this title (SEC Rule 17a-5), with the following modifications:

(1) References to “broker or dealer” include registered government securities brokers and dealers.

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to Form X-17A-5 mean Form G-405 (§ 449.5 of this chapter).

(4) For the purposes of § 240.17a-5(a)(4) of this title, the Commission may, on the terms and conditions stated in that subparagraph, declare effective a plan with respect to Form G-405, in which case, that plan shall be treated the same as a plan approved with respect to Form X-17A-5.

(5) References to “net capital” mean “liquid capital” as defined in § 402.2(d) of this chapter.

(6) References to § 240.15c3-1, relating to net capital, mean § 402.2 of this chapter.

(7) Paragraph 240.17a-5(c)(2)(ii) is modified to read as follows:

“(ii) A footnote containing a statement of the registered government securities broker’s or dealer’s liquid capital, total haircuts, and ratio of liquid capital to total haircuts, determined in accordance with § 402.2 of this title.

Such statement shall include summary financial statements of subsidiaries consolidated pursuant to § 402.2c of this title, where material, and the effect thereof on the liquid capital, total haircuts and ratio of liquid capital to total haircuts of the registered government securities broker or dealer.”.

(8) References to § 240.15c3-3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(9) The reference to § 240.15b1-2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2-2.

(10) The supplemental report described in § 240.17a-5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(11) Section 240.17a-5(e)(5)(ii) is modified to read as follows:

“(ii) No later than February 28, 1999, every registered government securities broker or dealer shall file Part I of Form BD-Y2K (§ 249.618 of this title) prepared as of January 15, 1999.”.

(12) Section 240.17a-5(e)(5)(iii) is modified to read as follows:

“(iii)(A) No later than February 28, 1999, every registered government securities broker or dealer required to maintain minimum liquid capital pursuant to § 402.2(b)(1) or (b)(2) of this title as of January 15, 1999, shall file Part II of Form BD-Y2K (§ 249.618 of this title). Part II of Form BD-Y2K shall address each topic in § 240.17a-5(e)(5)(iv) as of January 15, 1999.

“(B) No later than April 30, 1999, every registered government securities broker or dealer that was not required to file Part II of Form BD-Y2K under paragraph (e)(12)(iii)(A) of this section but was required to maintain minimum liquid capital pursuant to § 402.2(b)(1) or (b)(2) of this title at any time between January 16, 1999, and March 15, 1999, shall file Part II of Form BD-Y2K. Part II of Form BD-Y2K shall address each topic in § 240.17a-5(e)(5)(iv) as of March 15, 1999.

“(C) Any registered government securities broker or dealer that has an affiliated registered broker or dealer that files Form BD-Y2K subject to 17 CFR 240.17a-5(e)(5) will be exempted from paragraphs (e)(11) and (12) of this

section, *provided* the affiliate’s report encompasses the registered government securities broker’s or dealer’s transactions in, and holdings of, government securities. Any such registered government securities broker or dealer shall submit a letter stating its reliance on the exemption, the name of the affiliated registered broker or dealer that filed the report encompassing its government securities transactions and holdings, and the date the report was filed. The letter shall be filed with the SEC’s principal office in Washington, D.C. and with the broker’s or dealer’s designated examining authority.”.

(13) The report by an independent public accountant described in § 240.17a-5(e)(5)(vi) of this title, concerning a broker’s or dealer’s process for addressing year 2000 problems, is not required.

(14) References to Form BD-Y2K mean Form BD-Y2K in § 249.618 of this title.

(15) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to Section 405.2,” and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(16) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(a) of this chapter.

(b) A government securities inter-dealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter shall comply with the requirements of § 240.17a-5 of this title (SEC Rule 17a-5), with the following modifications:

(1) References to “broker or dealer” include government securities inter-dealer brokers;

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to “net capital” mean net capital calculated as provided in § 402.1(e) of this chapter.

(4) References to § 240.15c3-1, relating to net capital, include the modifications contained in § 402.1(e) of this chapter.

(5) References to § 240.15c3-3 and the exhibits thereto, relating to possession or control of customer securities and

§ 405.3

17 CFR Ch. IV (4-1-01 Edition)

reserve requirements, mean § 403.4 of this chapter.

(6) The reference to § 240.15b1-2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2-2.

(7) The supplemental report described in § 240.17a-5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(8) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to Section 405.2” and shall be filed within 30 days following the effective date of registration as a government securities broker.

(9) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(b) of this chapter.

(c) A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the requirements of § 240.17a-5 of this title (SEC Rule 17a-5), with the following modifications:

(1) References to “broker or dealer” include registered government securities brokers and dealers.

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to § 240.15c3-3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(4) The reference to § 240.15b1-2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2-2.

(5) The supplemental report described in § 240.17a-5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(6) The statement described in § 240.17a-5(f)(2) of this title shall be headed “Notice Pursuant to § 405.2,” and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(7) References in § 240.17a-5(h)(2) of this title to § 240.17a-11 mean § 405.3(c) of this chapter.

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§ 405.3 Notification provisions for certain registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, other than a government securities interdealer broker that is subject to the financial responsibility requirements of § 402.1(e) and a government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a-11 of this title (SEC Rule 17a-11), with the following modifications:

(1) References to “broker or dealer” include registered government securities brokers and dealers.

(2) References to § 240.15c3-1, relating to net capital, mean § 402.2 of this chapter.

(3) References to “net capital” mean “liquid capital” as defined in § 402.2 of this chapter.

(4) References to § 240.17a-5, relating to reports and audit, mean § 405.2(a) of this chapter.

(5) Section 240.17a-11(c), for the purposes of this section, is modified to read as follows:

“(c) Every registered government securities broker or dealer shall send notice promptly (but within 24 hours) in accordance with paragraph (g) of this section if a computation made pursuant to the requirements of § 402.2 of this title shows, at any time during the month, that its liquid capital is less than 150 percent of total haircuts, determined in accordance with § 402.2 of this title, or that its capital after deducting total haircuts from liquid capital is less than 120 percent of the registered government securities broker or dealer’s minimum capital requirement specified in § 402.2 (b) or (c) of this title as applicable.”